

Remarks

After careful consideration of the outstanding Office Action, this application has been amended accordingly and favorable reconsideration on the merits thereof is, at this time, respectfully requested.

There is but a single issue of record, namely, the rejection of claims 1 through 7 "less than 35 U.S.C. 103(a) as unpatentable over US 6,551,266 to Davis, in view of US Pub. 2003/0154108 to Fletcher-Hayes et al." The undersigned reviewed the latter-quoted rejection, the Examiner's reasoning allegedly supportive thereof and reported the same to the principals abroad for appropriate comment. Dr. Sandor Dolgos and Peter Szamko, two of the inventors, were kind enough to forward their "opinion as to how our invention differs from these documents" by way of their letter of November 19, 2003 attached hereto. The undersigned rarely files such direct correspondence from inventors because in most cases inventors are somewhat biased and/or provide comments which are not particularly helpful, particularly in countering an alleged *prima facie* case of obviousness under 35 U.S.C. § 103(b). However, in this case, Dr. Dolgos and Mr. Szamko were both candid and accurate in presenting their "opinion as to how our invention differs from these documents."

First, there is total **agreement** with the view of the Examiner that it would be "obvious to connect the ECB machines to any computer system using the Internet communication technique" and equally obvious "to combine the communication hardware and software in an integrated unit." However, Dr. Dolgos and Mr. Szamko go on to state that the main characteristic of the invention resides in the fact that the "User interface of the ECB is in close connection with the internal web browser, which yields

the information from the internal web server about the therapy.” The latter is expressed in claim 1 by the last limitation reciting:

the data communication between the user interface
and the ECB means is effected through the internal
browser.

As stated further in Dr. Dolgos’ and Mr. Szamko’s letter, “The ECB unit contains an internal web-server and in internal web-browser in the same unit (2) and the User Interface is based on the internal web-browser (3).” The conclusion of the inventors is imminently correct, i.e., “None of the cited documents contain these claim characteristics,” namely, the communication between the user interface (15) and the ECB unit (11) is effected through the Internet browser (14).

As now amended, the extracorporeal blood treatment system of claim 1 recites after the word “comprising” an “ECB station including an ECB means for extracorporeal blood treatment.” The ECB station also includes the internal web server, the internal web browser, etc., and the structure of the last limitation heretofore noted. Claim 1 thereby fairly reflects the total structure of the ECB station 10 of the drawing including the interrelated and interactive components 12, 13, 14, 15 and 16 thereof. The latter combination of claims clearly finds no counterpart in the Davis and/or Fletcher-Hayes et al. patents.

Turning specifically to page 2, paragraph 3 of the outstanding Office Action, the Examiner describes in detail the content of the Davis patent, including “a system for coordinating, managing, directing, entering, accessing, and analyzing all aspects of remote and local apheresis systems on the network.” Continuing through the bottom of page 2 and the first four

lines of page 3, the Examiner has simply concluded that following the Fletcher-Hayes et al. teachings, the Internet could be used "as a communication tool" if one sought "an obvious solution to communications problems." All, including one of the inventors and the undersigned, concur with the Examiner's broad holding in the latter regard. However, the issue as defined by claim 1 is not as broad as suggested by the Examiner. In the sentence bridging lines 5 through 8 of page 3 of the Office Action, the Examiner states: "The communication system used in Fletcher-Hayes' extracorporeal blood treatment system specifically discloses a web interface that allows communication between a computer/database system and various other computer systems." All are in agreement, but under Graham v. John Deere Co. of Kansas City, 383 U.S. 1, 17-18, 148 USPQ 459, 467 (1966), the ultimate question of obviousness/unobviousness requires satisfaction of three conditions, namely, "the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background, the obviousness or nonobviousness of the subject matter is determined."

On the record, the Examiner has described the "scope and content of the prior art," and the latter is not even remotely similar to the claims at issue. Accordingly, a person of ordinary skill might well utilize the prior art for the broad teachings thereof, as the Examiner stated, but such fails to render obvious (35 U.S.C. § 103(b)) the subject matter of claim 1, as presently amended.

In view of the foregoing, the withdrawal of the rejection of claim 1 and each of the claims depending therefrom is believed proper and would be most appreciated.

In view of the foregoing, the formal allowance of the application at an early date would be most appreciated.

Upon consideration of this amendment, should the Examiner decide to do anything other than allow all of the claims of record, she is requested to first call the undersigned in order that a personal interview can be arranged. A *bonafide* effort has been made by this amendment to clearly overcome the rejection of record, and absent pertinent prior art, all of the claims of record should be allowed. Accordingly, barring a personal interview, the formal allowance of the application is herewith again respectfully requested.

Very respectfully,

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19.11.2003 15:22

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Szamko/BBMH/BBRAUN@BBRAUN, Gerhard
Bock/BBMAG/BBRAUN@BBRAUNThema: Re: Our US patent application US 910, Extracorporeal blood
treatment system

Dear Mrs. Vincent,

We reviewed the sent documents (US 2003/0154108 - Fletcher-Haynes and US 6,551,266 - Davis and the Examiner's report and the letter of the US-patent attorney), so please find our opinion as to how our invention differs from these documents.

We found that the cited documents describe medical devices that communicate on a local (non-public) network or on the Internet using standard protocols (HTML, HTTP, TCP/IP).

We absolutely agree with the opinion of the Examiner: It is obvious to connect the ECB machines to any computer system using the internet communication technique. We also agree that it is obvious to combine the communication hardware and software in an integrated unit.

However, the main characteristic of our invention is as follows:

The User Interface of the ECB is in close connection with the internal web browser, which yields the information from the internal web server about the therapy.

The main characteristic of our invention is that the User Interface of the ECB unit is strictly based on this internal web server-web browser communication.

It is only a further option to connect the same ECB unit to a local network or even to the Internet using the already existing data communication inside the unit!

To prove that please consider a mind-experiment what would happen if we left out those features:

- It is not necessary at all to connect these ECB units to a local network, so networking may be left out from the ECB unit.
- However, it is absolutely necessary to have the internal web server/browser pair, because without them the User Interface of the ECB unit wouldn't work at all!

The advantage of this solution is the following:

We don't need to develop and maintain the full User Interface of the ECB unit twice: one User Interface for the ECB unit local handling and another remote User Interface for the remote access. In our invention both User Interfaces are based on the same internally generated dynamic web-pages.

Of course the use of remote User Interface would be restricted by careful functional authorization for the sake of patient's safety!

Our main claim in EP910 is about the ECB unit's User Interface and how this user interface is built up on which basis.

The ECB unit contains an internal web-server and an internal web-browser in the same unit (2) and the User Interface is based on the internal web-browser (3).

None of the cited documents contain these claim characteristics.

Perhaps our main claim should be completed or clarified in order to better emphasize the above mentioned main characteristics of our invention.

Best regards,

Dr. Sandor Dolgos
Peter Szamko